

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2000-0147-C - ORDER NO. 2000-733

SEPTEMBER 5, 2000

IN RE: Application of Access Point, Inc. for Approval) ORDER APPROVING
of a Transaction whereby Access Point, Inc.) ASSET TRANSFER
will Acquire Selected Customers from Efficacy)
Group, Inc.)

This matter comes before the Public Service Commission of South Carolina (the "Commission") on the Application of Access Point, Incorporated ("Access Point") for approval of Access Point's acquisition of certain assets of Efficacy Group, Incorporated ("Efficacy"). Upon closing of this transaction, Access Point will acquire specific assets of Efficacy, including customer accounts and accounts receivables.

Pursuant to the instructions of the Executive Director, Access Point published a Notice of Filing one time in newspapers of general circulation in the areas affected. Access Point filed affidavits of publication. The Notice of Filing informed the public on how it could participate in proceedings concerning this matter before the Commission. No Protests or Petitions to Intervene were received. Access Point therefore requests expedited review of the matter, and moves that the Commission designate its regular weekly meeting as the "due hearing" called for in the requisite statutory language. Access Point has also submitted the verified testimony of Richard Brown, President of the Company.

S.C. Code Ann. §58-9-310 (Supp. 1999) requires notice and “due hearing” before the Commission may approve the transfer of the assets of telephone utilities from one carrier to another. When there have been no Protests or Petitions to Intervene, we have often granted Motions for Expedited Review, when they are accompanied by verified testimony. We then declare the Commission meeting where the matter was considered to be the “due hearing” required by the statute.

We elect to follow this procedure in the present case, and grant the Motion for Expedited Review. We also hold that the Commission meeting of August 15, 2000, wherein the matter was considered by the Commission to be the “due hearing” required by the statute. We have examined the verified written testimony of Richard Brown, Access Point’s President, and find that it supports the reasoning and ultimate request found in the original Application.

Access Point was granted authority to operate as a reseller of interexchange telecommunications services pursuant to Order No. 96-791 (Docket No. 1996-218-C, November 15, 1996). Efficacy was granted authority to operate as a reseller of interexchange telecommunications services by this Commission pursuant to Order No. 98-69 (Docket No. 1997-293-C, February 2, 1998).

According to the record, the agreement entered into by Access Point and Efficacy involves Efficacy transferring specific assets, including customer accounts and accounts receivables to Access Point. Furthermore, the record reveals Efficacy has decided to terminate service to the customers involved in the transaction and Efficacy has agreed to transfer these customer accounts to Access Point as outlined in the agreement between Efficacy and Access Point. Mr. Brown’s testimony reveals further that Access Point

intends to migrate approximately three hundred twenty-one South Carolina customers from Efficy to Access Point. Additionally, Access Point will provide interexchange service to these customers under the same or better rates as provided by Efficy.

Mr. Brown also testified that Access Point will notify Efficy's affected customers of the transfer via a letter prior to the transfer and after consummation of the transfer. According to Mr. Brown's testimony, the letter to Access Point's new customers will include the following information: (1) the quality of service to the affected customers will remain the same and Access Point will continue to provide the affected customers with the same or better services and rates as currently provided by Efficy; (2) the affected customers have the right to switch to the interexchange carrier of their choice; (3) Access Point will reimburse customers for any primary interexchange carrier ("PIC") change charges if imposed by local exchange carriers ("LECs") in connection with this transaction; and (4) the affected customers may contact Access Point via a toll-free number with any questions regarding the switch-over.

Mr. Brown's testimony also reveals Access Point will amend its tariff to include applicable Efficy rates and services for those customers. According to the testimony, because Access Point will utilize Efficy's rates and services, the transaction will be completely transparent to customers and will not involve a change in the manner or quality in which Efficy's customers will receive their telecommunications services.

Finally, Mr. Brown addressed the public interest benefits associated with the transaction between Access Point and Efficy. First, Mr. Brown testified Efficy's customers will continue to receive service, under the same or better rates and customers will be sufficiently notified of the transaction and their rights before and after the

transfer. Secondly, according to Mr. Brown, approval of the transaction between Efficacy and Access Point is in the public interest because unless the Efficacy customers are transferred to the customer base of Access Point, there is a potential for a service disruption since Efficacy has decided, pursuant to the contemplated transaction, to discontinue providing interexchange services to these customers. Finally, according to the testimony, the transaction is in the public interest because there will be no change in the quality of service provided to customers and the customers are protected because they are being served by an experienced and qualified carrier.

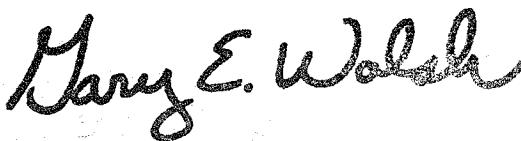
Accordingly, we have examined the testimony and the record of this case, and hereby approve the proposed transaction, for the reasons stated above. We believe no customer will be adversely affected by the transaction, and the transaction is in the public interest.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)